

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 30 June 2009 have been fully considered but they are not persuasive.
2. In response to the applicant's argument that Anderson fails to disclose the intake intensifier pledget overlying the body-facing surface of the absorbent core, it is noted that Anderson discloses in column 13, lines 59-62, an embodiment in which the intake intensifier pledget (i.e. the surge layer) is interposed between the cover (i.e. the bodyside liner) and the absorbent core (i.e. the retention layer). While Anderson shows in Figure 1 the retention layer being located at either end of the diaper, and not located beneath the surge layer, Anderson does disclose the possibility of the surge layer being attached at its lower surface to the either the distribution or retention layers. Anderson therefore discloses an alternate embodiment from that shown in Figure 1 in which the surge layer is located between the core and the cover, and fulfills the limitations of the present claims.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 23-26 and 29-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (5,843,063) in view of Roe et al. (6,120,783).

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5. With respect to claims 23, and 38, Anderson discloses all aspects of the claimed invention with the exception of the cover including a hydroentangled, hydroapertured spun-lace material. Anderson discloses an absorbent article, as shown in figure 1. The article comprises a liquid pervious cover, as disclosed in column 13, lines 18-19, an absorbent core 5, and an intake intensifier pledget 2 and 3. The pledget includes a first layer 2 comprising a through air bonded carded web, as disclosed in column 14, line 29, the web having a basis weight of between 15 and 70 gsm, as disclosed in column 14, lines 33-35, and a second layer 3 comprising an airlaid nonwoven material, as disclosed in column 20, line 7. The intake intensifier layer can be positioned between the cover and the body-facing surface of the absorbent core, as disclosed in column 13, lines 59-62.

6. Anderson discloses in column 13, lines 31-40, that the liquid pervious cover comprises a nonwoven material such as a spunbond or meltblown web. Roe teaches in column 6, lines 46-67, nonwoven webs that are spunbond, meltblown, hydroentangled, hydroapertured, or a combination thereof, are equivalent for use as the liquid pervious cover of an absorbent article.

7. It would therefore be obvious to one of ordinary skill in the art at the time of invention to make the liquid pervious cover of Anderson a hydroentangled, hydroapertured spunbond web, since Roe teaches the equivalence of such nonwoven webs for use as liquid pervious covers for absorbent articles.

8. With respect to claim 24, the through air bonded carded web has a low density, as disclosed in column 14, line 35, and is lofty, as disclosed in column 39-40.

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9. With respect to claims 25 and 39, the web comprises a staple fiber, as disclosed in column 14, line 24. It would have been obvious to one of ordinary skill in the art at the time of invention to provide staple fibers having a denier of between 3 and 10, since where the general conditions of the claims are disclosed in the prior art, finding the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

10. With respect to claim 26, the web comprises a bicomponent fiber, as disclosed in column 14, line 23.

11. With respect to claims 29 and 40, the absorbent core comprises a mixture of superabsorbent and fluff, as disclosed in column 12, lines 29-31.

12. With respect to claim 30, Anderson discloses all aspects of the claimed invention with the exception of the pledget having a length of at least 50 mm and a width of 30-60 mm. Anderson shows the pledget 2 has having a length that is less than the total length of the article, and width that is the width of the crotch region of the article. It would have been obvious to one of ordinary skill in the art at the time of invention to make the length of the pledget at least 50 mm and the width between 30 and 60 mm, since it has been held that where the general conditions of the claim are disclosed in the prior art (i.e. a pledget extending a portion of the length of an absorbent article), finding the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

13. With respect to claims 31 and 41, the article comprises a wrapping material 3, as shown in figure 1.

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14. With respect to claim 32, the article comprises a fluid distribution layer 4, as shown in figure 1.

15. With respect to claim 33, a channel is formed adjacent the pledget 2, as shown in figure 1.

16. With respect to claims 34-35 and 42-43, the cover comprises rayon or polyester, as disclosed in column 13, lines 36-39.

17. With respect to claims 36 and 44, the cover comprises a mix of rayon and polyester, as disclosed in column 13, lines 36-39. It would have been obvious to one of ordinary skill in the art at the time of invention to have the amount of rayon be 70% and the amount of polyester be 30%, since it has been held that where the general conditions of the claim are disclosed in the prior art, finding the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

18. With respect to claim 37, the article further comprises a second absorbent layer 4 comprising a thru-air bonded carded web having a basis weight of 35-70 gsm, as disclosed in column 15, lines 30-35, and the first absorbent layer 5 overlies the second absorbent layer 4, as shown in figure 1. It would have been obvious to one of ordinary skill in the art at the time of invention to provide staple fibers having a denier of between 3 and 10, since where the general conditions of the claims are disclosed in the prior art, finding the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

***Conclusion***

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Anderson whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. A./

Examiner, Art Unit 3761

/Tatyana Zalukaeva/

Supervisory Patent Examiner, Art Unit 3761